

- Group V: Claims 1-5, 7, 9-11 when A is pyridinyl B is phenyl or naphthyl, drawn to pyridinyl compounds;
- Group VI: Claims 1-5, 7, 9-11 when A is pyridinyl B is pyridinyl, drawn to bis-pyridyl compounds;

Applicants have elected, with traverse, Group I: Claims 1-5, 7, 9-11 when A is phenyl B is phenyl or naphthyl, drawn to aromatic carboxylates for examination.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the examiner if restriction is not required. (M.P.E.P. § 803). The burden of proof is on the examiner to provide reasons and/or examples, to support any conclusion in regard to patentable distinctness (M.P.E.P. § 803). Applicants respectfully traverse the restriction requirement on the grounds that the Examiner has not carried the burden of providing sufficient reason and/or examples to support any conclusion that the claims of the restricted groups are patentably distinct.

The Examiner concludes that Groups I-VIII "...are independent and distinct because unpatentability of any one group of compound[s] would not imply unpatentability of another group of compounds." However, the Examiner offers little or no reasons to support her conclusion with regard to patentable distinctness. As the Examiner has provided insufficient reasons in support of her belief, the Examiner has not met the burden placed upon her, and accordingly the restriction is believed to be improper and should be withdrawn.

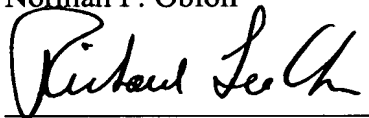
The Examiner has categorized the relationships between Groups IX and I-VIII as and process of making and product made. Patentable distinctness may be shown if either or both of the following can be shown: (A) that the process as claimed is not an obvious process of making the product and the process as claimed can be used to make other and different products, or (B) that the product as claimed can be made by another and materially different process (M.P.E.P. § 806.05(f)). However, the Examiner has not provided a sufficient

example or reason to support the criteria required under § 806.05(f)). Therefore, the examiner's reasoning is nearly a restatement of the examiner's conclusion that the two groups are patentably distinct. As the examiner has provided insufficient reasons in support of this belief, the examiner has not met the burden placed upon her, and accordingly, the restriction is believed to be improper and should be withdrawn.

Applicants submit this application is now in condition for examination on the merits and early notification of such action is earnestly solicited.

Respectfully submitted,

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